

FROM THE COMMITTEE ON MODEL CIVIL JURY INSTRUCTIONS

The Committee solicits comment on the following proposals by March 15,, 2012. Comments may be sent in writing to Timothy J. Raubinger, Reporter, Committee on Model Civil Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

PROPOSED

The Committee is considering the adoption of new and amended instructions for use in cases involving allegations of violations of the Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq.

[AMENDED] M Civ JI 105.01

EMPLOYMENT DISCRIMINATION STATUTE (DISPARATE TREATMENT)— EXPLANATION

(1) The law provides that an employer shall not discriminate against a person regarding employment, compensation, or a term, condition, or privilege of employment because of [religion / race / color / national origin / age / sex / height / weight / marital status].

(2) The law also provides that a person shall not retaliate or discriminate against a person because the person has opposed a violation of the Act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Act.

Note on Use

The use of any particular subsection will be dictated by the facts of the case.

Comment

MCL 37.2202; MCL 37.2701.

History

Added September 2005.

[NEW] M Civ JI 105.04A

EMPLOYMENT DISCRIMINATION—BURDEN OF PROOF—RETALIATION

Plaintiff has the burden of proving the following elements:

(a) that [he / she] [opposed a violation of the civil rights act / made a charge, filed a

complaint, or testified, assisted, or participated in an investigation, proceeding or hearing, under the Act];

(b) that was known by the defendant;

(c) that defendant took an employment action adverse to the plaintiff; and

(d) that there was a causal connection between the protected activity and the adverse employment action.

To establish a causal connection, plaintiff must demonstrate that [his / her] participation in the protected activity was a significant factor in the defendant's adverse employment action.

Comment

MCL 37.2701. *Barrett v Kirtland Com College*, 245 Mich App 306 (2002).

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

Chair: Hon. Alfred M. Butzbaugh

Reporter: Timothy J. Raubinger

Members: Hon. Jane M. Beckering; Mark R. Bendure; Mark T. Boonstra; Patricia J. Boyle; W. Mack Faison; Gary P. Gordon; Elizabeth Phelps Hardy; Hon. John A. Hohman, Jr.; Helen K. Joyner; Daniel J. McCarthy; David S. Mittleman; Hon. James R. Redford; Hon. Douglas B. Shapiro; Noreen L. Slank; Joseph C. Smith; Paul C. Smith; Hon. Brian R. Sullivan; Hon. Donald A. Teeple; Thomas Van Dusen; Hon. Michael D. Warren, Jr.